

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Examiner: Paul B. Prebilic

Steven Z. Wu et al.

Serial No.: 09/695,022

Art Unit: 3738

Filed: October 23, 2000

Title: Implantable Drug Delivery Prosthesis

Mail Stop Issue Fee  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO REQUIREMENT OF SUPPLEMENTAL OATH OR DECLARATION****IN NOTICE OF ALLOWABILITY**

Dear Examiner Prebilic:

This communication is in response to the Notice of Allowability and Issue Fee(s) Due mailed August 8, 2005. The above-mentioned application has been objected to because of "alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c); see page 13, lines 3-5 of the original specification." The Examiner has indicated that a properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

The Applicants respectfully disagree that a supplemental oath or declaration is required. Applicants received a fax from the Examiner on August 23, 2005 with a copy of page 13 of the above-mentioned application. The copy shows that lines 3-5 have handwritten lines drawn through them.

First, the supplemental oath or declaration is not required because Applicants assert that Applicants did not make the above-mentioned alterations to lines 3-5. In support of this assertion, Applicants enclose a copy of the as-filed specification which does not show any alterations to lines 3-5 of page 13. Therefore, the alterations on the application with the Patent Office must have occurred after Applicants sent the application to the Patent Office. Rule 1.52(c) applies only to alterations made by Applicants, not by the Patent Office. Therefore, Rule 1.52(c) does not apply.

Second, the supplemental oath or declaration is not required because the alteration is moot. First, the altered text is duplicative. The text immediately before the altered text on page 12, line 30 to page 13, line 2 is identical to the altered text on page 13, lines 3-5. Second, the alteration is moot since the altered text was deleted by applicants in a Response filed May 10, 2002.

### CONCLUSION

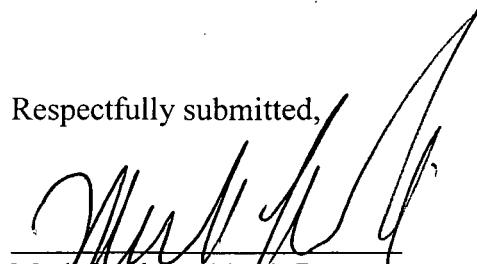
Applicants respectfully request that the Examiner remove the requirement for a Supplemental Oath or Declaration.

If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 954-0297.

Date: October 19, 2005

Squire, Sanders & Dempsey L.L.P.  
One Maritime Plaza, Suite 300  
San Francisco, CA 94111  
Telephone (415) 954-0200  
Facsimile (415) 393-9887

Respectfully submitted,

  
\_\_\_\_\_  
Mark Lupkowski, Ph.D.  
Attorney for Applicants  
Reg. No. 49,010